



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

49 CFR Part 37

[Docket DOT-OST-2015-0075]

**Transportation for Individuals with Disabilities; Service Criteria for
Complementary Paratransit Fares**

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of petition for rulemaking; request for comments.

SUMMARY: This document seeks public comments on a petition for rulemaking from Access Services concerning the Department's regulations implementing the Americans with Disabilities Act (ADA) with respect to the method of determining the fare for a trip charged to an ADA paratransit eligible user. The petition asks the Department to revise its regulation to allow for a "coordinated" or two-tier fare structure. The current regulation provides that the fare shall not exceed twice the fare that would be charged to an individual paying full fare for a similar trip on the fixed route system.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please submit your comments by only one of the following methods:

- Online: Use the Federal eRulemaking portal at <http://www.regulations.gov> and follow the instructions for submitting comments.

- U.S. Mail: Send your comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: Go to Room W12-140 on the ground floor of the West Building, U.S. Department of Transportation headquarters, 1200 New Jersey Avenue, S.E., between 9 a.m. and 5 p.m. Eastern time, Monday through Friday except Federal holidays.
- Telefax: Send your comments to 202-493-2251.

Instructions: All comments must include the docket number for this rulemaking: DOT-OST-2015-0075. Submit two copies of your comments if you submit them by mail. For confirmation that DOT received your comments, include a self-addressed, stamped postcard. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading under “Supplementary Information,” below, for Privacy Act information pertinent to any submitted comments or materials, and you may review DOT’s complete Privacy Act Statement published in the Federal Register on April 11, 2000, at 65 FR 19477.

Docket Access: For access to background documents and comments received in the rulemaking docket, go to <http://www.regulations.gov> or to the U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Room W12-140, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m., Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Attorney-Advisor, Office of General Counsel, U.S. DOT, 1200 New Jersey Ave. SE, Washington, D.C.,

20590, phone: (202) 493-0308, or e-mail, Jill.Laplosky@dot.gov; or Bonnie Graves, Assistant Chief Counsel for Legislation and Regulations, Office of Chief Counsel, Federal Transit Administration, same address, phone: (202) 366-4011, or e-mail, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION: On March 4, 2015, the U.S. Department of Transportation (DOT) received a petition for rulemaking from Access Services, the Americans with Disabilities Act (ADA) complementary paratransit provider for 44 fixed route transit providers in Los Angeles County, California. Access Services uses a “coordinated” or two-tier fare structure where it generally charges \$2.75 for one-way trips up to 19.9 miles, and \$3.50 for one-way trips of 20 miles or more. In some cases, these fares exceed twice the fixed route fare. The DOT’s ADA regulation at 49 CFR 37.131(c) provides that the fare for a trip charged to an ADA paratransit eligible user of the complementary paratransit service shall not exceed twice the fare that would be charged to an individual paying full fare for a trip of similar length, at a similar time of day, on the entity’s fixed route system. In recent triennial reviews of some fixed route providers in Los Angeles County, the Federal Transit Administration (FTA) has made findings that the ADA paratransit fares exceed twice the fixed route fare. In other words, some paratransit riders are paying more for ADA paratransit fares than they should be under the Department’s existing regulations.

Access Services’ petition for rulemaking has been placed in the docket. Access Services asserts in its petition that its two-tier fare structure is simple for riders to understand and easy for Access Services and its providers to implement. In its petition,

Access Services requests that the Department propose amending its ADA regulations to allow for a coordinated fare structure as follows:

Proposed Amendment to DOT ADA Regulations

The Access Services proposes the following addition to 49 CFR 37.131(c) on service criteria for complementary paratransit:

- Alternatively, the maximum fare that may be charged by an entity which administers a coordinated paratransit plan for 20 or more fixed route members pursuant to 49 CFR 37.141 and approved pursuant to 49 CFR 37.147 shall be no more than twice the regional average fixed-route fare determined as follows:
 - The entity may calculate a regional average fixed-route fare by obtaining a statistically-valid, random sample of its recent paratransit trips, calculating the applicable fixed-route fare for those trips and averaging the results. The sample may be subdivided by distance to determine the regional average fixed-route fares for trips of a certain mileage.

The Department's regulations at 49 CFR 5.11 permit any person to petition the Secretary to amend a rule. It is solely within the discretion of the Secretary to grant or deny such a petition, and the Secretary has not yet decided whether or not to grant or deny the Access Services' petition. In order to supplement the information provided by Access Services in support of its petition for rulemaking, the Department is requesting public comments on the issue presented in the petition. The Department will use this collective information in the development of the technical review that will serve as the basis for determining whether to grant or deny the petition.

The Department is especially interested in hearing from individuals who use ADA complementary paratransit services in order to better understand how they would be impacted if the Department adopted the Access Services' language or similar language. Would a more simplified tiered fare system, set by the local transit agencies, be beneficial to individuals with disabilities using public transportation in regions with multiple fixed route providers? Would any tiered system need to be capped at a certain amount (e.g., twice the fare on a comparable fixed route trip)? How many tiers would be unmanageable for individuals with disabilities?

The Department is also interested to hear from ADA complementary paratransit providers throughout the country. How do these paratransit providers, particularly in regions with many fixed-route operators, currently determine fares in order to comply with the Department's current regulations? What procedures or best practices do they use? What challenges do ADA complementary paratransit providers face in setting fares under the current regulations? How many fixed-route providers do you coordinate with?

Issued in Washington, D.C., this 29th day of July 2015, under authority delegated in 49 CFR 1.27(a).

Kathryn B. Thomson,
General Counsel.

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